HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 24705 OF 1998

Between:

Kedari Siva Rama Prasad

…Petitioner

AND

The Vice Chairman – Managing Director,
Andhra Pradesh Road Transport Corporation,
Musheerabad, Hyderabad and another

...Respondents

: O R D E R :

Counsel for the petitioner : Shri P.Anantha Seshu

Counsel for the respondents : Shri C. Prakash Reddy

October 3, 2007

The utmost urgency in the decision of applications made by the dependants of deceased employees and adjudication of cases filed by them is sine qua non for effective implementation of the policies of compassionate appointment. This was recognized by the Supreme Court in the often quoted judgment i.e., **Umesh Kumar Nagpal v. State of Haryana**[1]. That judgment is locus classicus on the subject. While explaining the philosophy underlying the policy of compassionate appointment, their Lordships of the Supreme Court emphasised that the dependant of the employee must make application for compassionate appointment without delay, else the object of providing source of sustenance to the family of the deceased employee will be defeated. In my opinion, the courts must also keep in mind that abnormal delay in adjudication of disputes relating to the claims of the dependants of the deceased employees substantively defeats the purpose with which the rules or policies for compassionte appointment are framed.

In the present case, the petitioner has prayed for issue of a direction to the respondents to appoint him on compassionate ground by stating that his father Shri Kedari Achaiah who was working as Controller in Avanigadda Depot of the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation') died in harness on 3-2-1997 and that even though he applied for compassionate appointment in the year 1997 itself, Regional Manager, Vijayawada arbitrarily denied him appointment on the premise that he had crossed the upper age limit of 35 years. Along with the writ affidavit, the petitioner has placed on record

12 documents to show that he is a dependant of late Shri Kedari Achaiah and that being a member of Backward Class, he is entitled to the benefit of relaxation in the age limit. He has relied death certificate of his father, secondary school certificate, school transfer certificate,

community, nativity and date of birth certificate, and community certificate issued by the school authorities and Mandal Revenue Officer, Machilipatnam respectively and averred that he belongs to Setty Balija Caste, which falls in the category of Backward Class.

The case set up by the respondents is simple. They have pleaded that the petitioner's father joined the service by showing himself as Balija by Caste, which is not a Backward Class and, therefore, the petitioner's plea for relaxation of age by being treated as a member of the Backward Class was not entertained.

Shri P. Anantha Seshu, learned counsel for the petitioner made efforts to persuade us to overturn the decision taken by the Regional Manager of the Corporation on the issue of the eligibility and entitlement of his client to be appointed on compassionate ground by pointing out that the documents produced with the writ petition comprehensively prove that his caste is Setty Balija and not Balija, but I have not felt persuaded to accept the submission of the learned counsel because no evidence has been produced before the Court to show that the documents filed with the writ petition and additional affidavit were produced before the Regional Manager concerned so as to enable him to examine his claim for appointment on compassionate ground by being treated as a member of Backward Class. In the absence of such evidence, the documents produced for the first time before this Court cannot be relied for recording a finding that the Regional Manager had acted illegally by declining to appoint the petitioner on compassionate ground. The record produced by Shri C. Prakash Reddy, learned counsel for the respondents shows that in the service book maintained by the competent authority, the caste of the petitioner's father was recorded as Balija and not as Setty Balija and he was throughout treated as a member of Other Caste. The file produced by Shri C. Prakash Reddy was also shown to

Shri P. Anantha Seshu, who fairly admitted that in the record of the

Corporation the caste of late Shri Kedari Achaiah has been recorded as Balija, but reiterated that the Court should consider the documents produced before the Court and nullify the decision of the concerned authority.

At the cost of repetition, I deem it appropriate to observe that the documents which have been produced before the Court for the first time cannot be considered for the purpose of declaring the petitioner eligible for appointment on compassionate ground at the age of 48-49 years.

In the result, the writ petition is dismissed.

G.S. SINGHVI, CJ

October 3, 2007
Ks/ars

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[1] (1994) 4 SCC 138